

IC 6-1.1-8

Chapter 8. Taxation of Public Utility Companies

IC 6-1.1-8-1

Property owned or used by public utility company

Sec. 1. The property owned or used by a public utility company shall be taxed in the manner prescribed in this chapter. Property used by a public utility company consists of property which the company uses under an agreement whereby the company exercises the beneficial rights of ownership for the major part of a year. When reference is made in this chapter to the "property of" a public utility company or to the public utility "company's property", the reference includes the property owned or used by that company.

(Formerly: Acts 1975, P.L.47, SEC.1.)

IC 6-1.1-8-2

Definitions

Sec. 2. As used in this chapter:

(1) The term "bridge company" means a company which owns or operates a toll bridge or an approach or facility operated in connection with such a bridge.

(2) The term "bus company" means a company (other than a street railway company) which is principally engaged in the business of transporting persons for hire by bus in or through two (2) or more townships of this state.

(3) The term "definite situs" means a permanent location in one (1) taxing district or a customary location for use in one (1) taxing district.

(4) The term "express company" means a company which is engaged in the business of transporting property by land, air, or water, and which does not itself operate the vehicles (except for terminal pickup and delivery vehicles) of transportation.

(5) The term "light, heat, or power company" means a company which is engaged in the business of furnishing light, heat, or power by electricity, gas, or steam.

(6) The term "pipe line company" means a company which is engaged in the business of transporting or transmitting any gas or fluid (except water) through pipes.

(7) The term "property" includes both tangible and intangible property.

(8) The term "public utility company" means a company which is subject to taxation under this chapter regardless of whether the company is operated by an individual, a partnership, an association, a corporation, a limited liability company, a fiduciary, or any other entity.

(9) The term "railroad company" means a company which owns or operates:

- (i) a steam or electric railroad;
- (ii) a suburban or interurban railroad;
- (iii) a switching or terminal railroad;
- (iv) a railroad station, track, or bridge; or
- (v) a facility which is part of a railroad system.

(10) The term "railroad car company" means a company (other than a railroad company) which owns or operates cars for the transportation of property on railroads.

(11) The term "sleeping car company" means a company (other than a railroad company) which owns or operates cars for the transportation of passengers on railroads.

(12) The term "street railway company" means a company which operates a passenger transportation business principally within one (1) or more municipalities regardless of whether the transportation vehicles operate on tracks, by means of electric power transmitted through wires, or by means of automotive equipment.

(13) The term "system" means all property owned or used by a public utility company or companies and operated as one (1) unit in furnishing a public utility service.

(14) The term "telephone, telegraph, or cable company" means a company which is principally engaged in the business of communicating by electrical transmission.

(15) The term "tunnel company" means a company which owns or operates a toll tunnel.

(16) The term "unit value" means the total value of all the property owned or used by a public utility company.

(17) The term "water distribution company" means a company which is engaged in the business of selling or distributing water by pipe, main, canal, or ditch.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1977, P.L.2, SEC.10; Acts 1981, P.L.66, SEC.1; Acts 1982, P.L.43, SEC.1; P.L.64-1983, SEC.1; P.L.59-1985, SEC.1; P.L.8-1993, SEC.79.

IC 6-1.1-8-3

Companies subject to taxation

Sec. 3. (a) Except as provided in subsection (c), the following companies are subject to taxation under this chapter:

- (1) Each company which is engaged in the business of transporting persons or property.
- (2) Each company which is engaged in the business of selling or distributing electricity, gas, steam, or water.
- (3) Each company which is engaged in the business of transmitting messages for the general public by wire or airwaves.
- (4) Each company which is engaged in the business of operating a sewage system or a sewage treatment plant.

(b) The companies which are subject to taxation under this chapter include, but are not limited to:

- (1) bridge companies;
- (2) bus companies;
- (3) express companies;
- (4) light, heat, or power companies;
- (5) pipeline companies;
- (6) railroad companies;
- (7) railroad car companies;
- (8) sleeping car companies;
- (9) street railway companies;

- (10) telephone, telegraph, or cable companies;
- (11) tunnel companies; and
- (12) water distribution companies.

(c) The following companies are not subject to taxation under this chapter:

- (1) Aviation companies.
- (2) Broadcasting companies.
- (3) Television companies.
- (4) Water transportation companies.
- (5) Companies which are operated by a municipality or a municipal corporation, except those utility companies owned or held in trust by a first class city.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1980, P.L.8, SEC.51; Acts 1981, P.L.66, SEC.2; P.L.64-1983, SEC.2; P.L.59-1985, SEC.2.

IC 6-1.1-8-4

Companies within and partially without state; tax determinations

Sec. 4. (a) If a public utility company operates a system partially within and partially without this state, the company's property which is subject to taxation under this chapter is:

- (1) that property which has a definite situs in this state; and
- (2) that property which does not have a definite situs either in this state or in any other state and which the department of local government finance determines is taxable in this state.

(b) To determine the value of an interstate public utility company's property which does not have a definite situs either in this state or in any other state and which is taxable in this state, the department of local government finance shall consider the value of all the company's property which does not have a definite situs and shall allocate a reasonable portion of that property to this state. The department of local government finance shall make the allocation in a manner which is fair to both the state and the company.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1977, P.L.2, SEC.11; P.L.90-2002, SEC.57.

IC 6-1.1-8-5

Fixed property; definite-situs distributable property; indefinite-situs distributable property

Sec. 5. The property owned or used by the various public utility companies is classified under sections 6 through 18 of this chapter as fixed property, definite-situs distributable property, or indefinite-situs distributable property. When a reference is made in this chapter to fixed property, definite-situs distributable property, or indefinite-situs distributable property, the classifications contained in sections 6 through 18 of this chapter apply.

(Formerly: Acts 1975, P.L.47, SEC.1.)

IC 6-1.1-8-6

Bridge companies

Sec. 6. (a) The fixed property of a bridge company consists of real property which is not part of a bridge head or right-of-way of the company. The remainder of the bridge company's property is distributable property.

(b) A bridge company's definite-situs distributable property consists of:

- (1) bridges;
- (2) land on which bridge heads are located; and
- (3) the company's rights-of-way.

(c) A bridge company's property which is not described in subsection (a) or (b) is indefinite-situs distributable property. The department of local government finance shall apportion and distribute the assessed valuation of this property among the taxing districts in which the company has property that is described in either subsection (a) or (b). The amount which the department of local government finance shall distribute to a taxing district equals the product of (1) the total assessed valuation of the bridge company's indefinite-situs distributable property, multiplied by (2) a fraction, the numerator of which is the value of the company's property which is located in the taxing district and which is described in either subsection (a) or (b), and the denominator of which is the value of the company's property which is located in this state and which is described in either subsection (a) or (b).

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1977, P.L.2, SEC.12; P.L.90-2002, SEC.58.

IC 6-1.1-8-7

Bus companies

Sec. 7. (a) The fixed property of a bus company consists of real property and tangible personal property which is located within or on the real property.

(b) A bus company's property which is not described in subsection (a) is indefinite-situs distributable property. This property includes, but is not limited to, buses and other mobile equipment. The department of local government finance shall apportion and distribute the assessed valuation of this property among the taxing districts in or through which the company operates its system. The amount which the department of local government finance shall distribute to a taxing district equals the product of (1) the total assessed valuation of the bus company's indefinite-situs distributable property, multiplied by (2) a fraction, the numerator of which is the company's average daily regularly scheduled passenger vehicle route miles in the taxing district, and the denominator of which is the company's average daily regularly scheduled passenger vehicle route miles in this state.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.90-2002, SEC.59.

IC 6-1.1-8-8

Express companies

Sec. 8. (a) The fixed property of an express company consists of real property and tangible personal property which has a definite situs. The

remainder of the express company's property is indefinite-situs distributable property.

(b) The department of local government finance shall apportion and distribute the assessed valuation of an express company's indefinite-situs distributable property among the taxing districts in which the fixed property of the company is located. The amount which the department of local government finance shall distribute to a taxing district equals the product of (1) the total assessed valuation of the express company's indefinite-situs distributable property, multiplied by (2) a fraction, the numerator of which is the value of the company's fixed property which is located in the taxing district, and the denominator of which is the value of the company's fixed property which is located in this state.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.90-2002, SEC.60.

IC 6-1.1-8-9

Light, heat, or power companies

Sec. 9. (a) The fixed property of a light, heat, or power company consists of:

- (1) automotive and other mobile equipment;
- (2) office furniture and fixtures;
- (3) other tangible personal property which is not used as part of the company's production plant, transmission system, or distribution system; and
- (4) real property which is not part of the company's right-of-ways, transmission system, or distribution system.

(b) A light, heat, or power company's property which is not described as fixed property in subsection (a) of this section is definite-situs distributable property. This property includes, but is not limited to, turbo-generators, boilers, transformers, transmission lines, distribution lines, and pipe lines.

(Formerly: Acts 1975, P.L.47, SEC.1.)

IC 6-1.1-8-10

Pipe line companies

Sec. 10. (a) The fixed property of a pipe line company consists of:

- (1) real property which is not part of a pipe line or right-of-way of the company; and
- (2) tangible personal property which is not part of the company's distribution system.

(b) A pipe line company's property which is not described in subsection (a) is indefinite-situs distributable property. The department of local government finance shall apportion and distribute the assessed valuation of this property among the taxing districts in which the company's pipe lines are located. The amount which the department of local government finance shall distribute to a taxing district equals the product of (1) the total assessed valuation of the pipe line company's indefinite-situs distributable property, multiplied by (2) a fraction, the numerator of which is the length of the company's pipe lines in the taxing district, and the denominator of which is the length of the

company's pipe lines in this state.
(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.90-2002, SEC.61.

IC 6-1.1-8-11

Railroad companies

Sec. 11. (a) The fixed property of the railroad company consists of real property which is not required for the operation of the railroad and tangible personal property which is located within or on that real property. The remaining property of the railroad company is distributable property.

(b) A railroad company's definite-situs distributable property consists of the company's:

- (1) rights-of-way and road beds;
- (2) station and depot grounds;
- (3) yards, yard sites, superstructures, turntable, and turnouts;
- (4) tracks;
- (5) telegraph poles, wires, instruments, and other appliances, which are located on the right-of-ways; and
- (6) any other buildings or fixed situs personal property used in the operation of the railroad.

(c) A railroad company's property which is not described in subsection (a) or (b) is indefinite-situs distributable property. This property includes, but is not limited to, rolling stock. The department of local government finance shall apportion and distribute the assessed valuation of this property among the taxing districts in which the railroad company operates its system. The amount which the department of local government finance shall distribute to a taxing district equals the product of (1) the total assessed valuation of the railroad company's indefinite-situs distributable property, multiplied by (2) a fraction, the numerator of which is the relative value of the company's main lines, branch lines, main tracks, second main tracks, and sidetracks, including all leased lines and tracks, which are located in the taxing district, and the denominator of which is the relative value of the company's main lines, branch lines, main tracks, second main tracks, and sidetracks, including all leased lines and tracks, which are located in this state.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.90-2002, SEC.62.

IC 6-1.1-8-12

Railroad car companies

Sec. 12. (a) The fixed property of a railroad car company consists of real property and tangible personal property which has a definite situs. The remainder of the railroad car company's property is indefinite-situs distributable property.

(b) The department of local government finance shall assess a railroad car company's indefinite-situs distributable property on the basis of the average number of cars owned or used by the company within this state during the twelve (12) months of the calendar year preceding the year of assessment. The average number of cars within

this state equals the product of:

- (1) the sum of "M" plus "E"; multiplied by
- (2) a fraction, the numerator of which is "N", and the denominator of which is the number two (2).

"M" equals the mileage traveled by the railroad car company's cars in this state divided by the mileage traveled by the company's cars both within and outside this state. "E" equals the earnings generated by the company's cars in this state divided by the earnings generated by the company's cars both within and outside this state. "N" equals the total number of cars owned or used by the company both within and outside this state.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1977, P.L.2, SEC.13; P.L.78-1987, SEC.1; P.L.90-2002, SEC.63.

IC 6-1.1-8-12.5

Repealed

(Repealed by P.L.59-1985, SEC.37.)

IC 6-1.1-8-13

Sleeping car companies

Sec. 13. (a) The fixed property of a sleeping car company consists of real property and tangible personal property which has a definite situs.

(b) A sleeping car company's property which is not described in subsection (a) is indefinite-situs distributable property. The department of local government finance shall apportion and distribute the assessed valuation of this property among the taxing districts in or through which the company operates cars. The department of local government finance shall make the apportionment in a manner which it considers fair.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.90-2002, SEC.64.

IC 6-1.1-8-14

Street railway companies

Sec. 14. (a) The fixed property of a street railway company consists of:

- (1) real property which is not part of the company's tracks or rights-of-way; and
- (2) tangible personal property which is located within or on the real property described in subdivision (1).

(b) A street railway company's property which is not described in subsection (a) is distributable property. This property includes, but is not limited to:

- (1) rights-of-way of the company;
- (2) tangible personal property which is located on a right-of-way of the company; and
- (3) rolling stock.

(c) The department of local government finance shall apportion and distribute the assessed valuation of a street railway company's indefinite-situs distributable property among the taxing districts in or

through which the company operates its system. The amount which the department of local government finance shall distribute to a taxing district equals the product of (1) the total assessed valuation of the street railway company's indefinite-situs distributable property, multiplied by (2) a fraction, the numerator of which is the company's average daily regularly scheduled passenger vehicle route miles in the taxing district, and the denominator of which is the company's average daily regularly scheduled passenger vehicle route miles in this state. *(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1977, P.L.2, SEC.14; P.L.90-2002, SEC.65.*

IC 6-1.1-8-15

Telephone, telegraph, or cable companies

Sec. 15. (a) The fixed property of a telephone, telegraph, or cable company consists of:

- (1) tangible personal property which is not used as part of the distribution system of the company; and
- (2) real property which is not part of the company's rights-of-way or distribution system.

(b) A telephone, telegraph, or cable company's property which is not described under subsection (a) is indefinite-situs distributable property. The department of local government finance shall apportion and distribute the assessed valuation of this property among the taxing districts in which the company's lines or cables, including laterals, are located. The amount which the department of local government finance shall distribute to a taxing district equals the product of (1) the total assessed valuation of the telephone, telegraph, or cable company's indefinite-situs distributable property, multiplied by (2) a fraction, the numerator of which is the length of the company's lines and cables, including laterals, which are located in the taxing district, and the denominator of which is the length of the company's lines and cables, including laterals, which are located in this state.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.90-2002, SEC.66.

IC 6-1.1-8-16

Tunnel companies

Sec. 16. (a) The fixed property of a tunnel company consists of real property which is not part of a right-of-way of the company. The remainder of the tunnel company's property is distributable property.

(b) A tunnel company's definite-situs distributable property consists of the company's tunnels and rights-of-way.

(c) A tunnel company's property which is not described in subsection (a) or (b) is indefinite-situs distributable property. The department of local government finance shall apportion and distribute the assessed valuation of this property among the taxing districts in which the company has property that is described in either subsection (a) or (b). The amount which the department of local government finance shall distribute to a taxing district equals the product of (1) the total assessed valuation of the tunnel company's indefinite-situs distributable property, multiplied by (2) a fraction, the numerator of

which is the value of the company's property which is located in the taxing district and which is described in either subsection (a) or (b), and the denominator of which is the value of the company's property which is located in this state and which is described in either subsection (a) or (b).

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.90-2002, SEC.67.

IC 6-1.1-8-17

Water distribution companies

Sec. 17. (a) The fixed property of a water distribution company consists of:

- (1) tangible personal property which is not used as part of the company's distribution system; and
- (2) real property which is not part of the company's rights-of-way or distribution system.

A well, settling basin, or reservoir (except an impounding reservoir) is not fixed property of a water distribution company if it is used to store treated water or water in the process of treatment.

(b) A water distribution company's property which is not described as fixed property under subsection (a) is indefinite-situs distributable property. The department of local government finance shall apportion and distribute the assessed valuation of this property among the taxing districts in which the company's water mains, including feeder and distribution mains, are located. The amount which the department of local government finance shall distribute to a taxing district equals the product of (1) the total assessed valuation of the water distribution company's indefinite-situs distributable property, multiplied by (2) a fraction, the numerator of which is the length of the company's water mains, including feeder and distribution mains, which are located in the taxing district, and the denominator of which is the length of the company's water mains, including feeder and distribution mains, which are located in this state.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.90-2002, SEC.68.

IC 6-1.1-8-18

Other companies

Sec. 18. For a public utility company which is not within one (1) of the classes of companies whose property is described in sections 6 through 17 of this chapter, the fixed property of the company consists of real property and tangible personal property. The remainder of the company's property is indefinite-situs distributable property. The department of local government finance shall, in a manner which it considers fair, apportion and distribute the assessed valuation of the company's indefinite-situs distributable property among the taxing districts in which the company operates its system.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.90-2002, SEC.69.

IC 6-1.1-8-19

Statement of value and description of property; filing deadline

Sec. 19. Each year a public utility company shall file a statement concerning the value and description of the property which is either owned or used by the company on the assessment date of that year. The company shall file this statement with the department of local government finance on the form prescribed by the department. The department of local government finance may extend the due date for a statement. Unless the department of local government finance grants an extension, a public utility company shall file its statement for a year:

- (1) on or before March 1st of that year unless the company is a railroad car company; or
- (2) on or before May 1st of that year if the company is a railroad car company.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1981, P.L.66, SEC.4; P.L.59-1985, SEC.3; P.L.90-2002, SEC.70.

IC 6-1.1-8-20

Failure to file statement; penalty; action by attorney general

Sec. 20. (a) If a public utility company does not file a statement with the department of local government finance on or before the date prescribed under section 19 of this chapter, the company shall pay a penalty of one hundred dollars (\$100) per day for each day that the statement is late.

(b) The department of local government finance shall notify the attorney general if a public utility company fails to file a statement on or before the due date. The attorney general shall then bring an action in the name of this state to collect the penalty due under this section.

(c) The state auditor shall deposit amounts collected under this section in the state treasury for credit to the state general fund.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.64-1983, SEC.4; P.L.59-1985, SEC.4; P.L.90-2002, SEC.71.

IC 6-1.1-8-21

Copies of various reports; requests from department of local government finance

Sec. 21. The department of local government finance may ask a public utility company to provide the department with copies of any reports which the company has filed with a state or federal agency if:

- (1) the reports are related to the valuation, assessment, or taxation of the company's property; and
- (2) the agency has either regulatory or taxing authority.

If the department of local government finance makes such a request, the company shall provide the department with copies of the reports. The department of local government finance may also inspect the original reports filed by the company regardless of whether or not the department has obtained copies of the reports from the company. In addition, the department of local government finance may inspect a public utility company's property, books, and records.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.90-2002, SEC.72.

IC 6-1.1-8-22

Assessment by department of local government finance

Sec. 22. The department of local government finance shall assess the property of a public utility company based upon the information available to the department if the company:

- (1) does not file a statement which is required under section 19 of this chapter;
- (2) does not permit the department to examine the company's property, books, or records; or
- (3) does not comply with a summons issued by the department.

An assessment which is made by the department of local government finance under this section is final unless the company establishes that the department committed actual fraud in making the assessment.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.90-2002, SEC.73.

IC 6-1.1-8-23

Filing statement with township and county assessors

Sec. 23. Each year a public utility company shall file a statement with the assessor of each township and county assessor of each county in which the company's property is located. The company shall file the statement on the form prescribed by the department of local government finance. The statement shall contain a description of the company's tangible personal property located in the township.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.78-1987, SEC.2; P.L.3-1989, SEC.31; P.L.6-1997, SEC.30; P.L.90-2002, SEC.74.

IC 6-1.1-8-24

Township assessor; certification of assessed values

Sec. 24. (a) Each year a township assessor shall assess the fixed property which as of the assessment date of that year is:

- (1) owned or used by a public utility company; and
- (2) located in the township the township assessor serves.

(b) The township assessor shall determine the assessed value of fixed property. The township assessor shall certify the assessed values to the county assessor on or before April 1 of the year of assessment. However, in a county with an elected township assessor under IC 36-6-5-1 in every township the township assessor shall certify the list to the department of local government finance. The county assessor shall review the assessed values and shall certify the assessed values to the department of local government finance on or before April 10 of the year of assessment.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.24-1986, SEC.11; P.L.6-1997, SEC.31; P.L.90-2002, SEC.75.

IC 6-1.1-8-25

Assessment of distributable property

Sec. 25. (a) Each year the department of local government finance shall assess the distributable property which as of the assessment date of that year is owned or used by a public utility company. The

department of local government finance shall determine the assessed value of distributable property. The department of local government finance shall equalize its assessments of distributable property in the same manner that it equalizes assessments of tangible property under IC 6-1.1-14.

(b) The department of local government finance shall distribute the assessed valuation of definite-situs distributable property to the taxing district in which the property is located. Except as provided in section 35 of this chapter, the department of local government finance shall apportion and distribute the assessed valuation of indefinite-situs distributable property in the manner prescribed in sections 6 through 18 of this chapter. However, this subsection does not apply to that distributable property which is taxed under section 35 of this chapter. *(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1981, P.L.66, SEC.5; Acts 1981, P.L.67, SEC.1; P.L.24-1986, SEC.12; P.L.6-1997, SEC.32; P.L.90-2002, SEC.76.*

IC 6-1.1-8-26

Valuation of company property

Sec. 26. (a) On or before June 1st of each year, the department of local government finance shall determine the just value of the property of each public utility company. Except for railroad car companies, the department of local government finance shall determine that just value by first determining the approximate unit value of each public utility company. The value of the distributable property of a public utility company, other than a railroad car company, equals the remainder of:

- (1) the unit value of the company; minus
- (2) the value of the company's fixed property.

The value of the distributable property of a railroad car company equals the value of all of the company's distributable property multiplied by the adjustment factor provided under section 12 of this chapter.

(b) In order to determine the unit value of a public utility company, the department of local government finance may consider:

- (1) book value;
- (2) cost of replacement or reproduction, less depreciation;
- (3) cost of establishing and developing the business;
- (4) amount and market value or sales price of outstanding securities;
- (5) valuations determined by another governmental agency or indicated by a judicial decision, including but not limited to determinations made for rate making purposes;
- (6) statistics and reports prepared or filed by the company;
- (7) statistics and reports prepared by another governmental agency or by a private organization if the organization is considered reliable by investors and investment dealers;
- (8) earnings capitalized at a reasonable rate; and
- (9) any other information which the department considers relevant.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1981, P.L.66, SEC.6; Acts 1982, P.L.43, SEC.3; P.L.59-1985, SEC.5; P.L.90-2002, SEC.77.

IC 6-1.1-8-27

Certification of assessed value; notification of appeal; review by county assessor

Sec. 27. (a) As soon as the department of local government finance determines its final assessments of distributable property, the department shall certify to the county assessor and the county auditor of each county:

- (1) the distributable property assessed values which the department determines are distributable to the taxing districts of the county; and
- (2) the assessed values, according to the department's records, of fixed property located in the taxing districts of the county.

In addition, if a public utility company has appealed the department of local government finance's final assessment of the company's distributable property, the department shall notify the county auditor of the appeal.

(b) The county assessor shall review the department of local government finance's certification to determine if any of a public utility company's property which has a definite situs in the county has been omitted. The county auditor shall enter for taxation the assessed valuation of a public utility company's distributable property which the department distributes to a taxing district of the county.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.90-2002, SEC.78.

IC 6-1.1-8-28

Tentative assessment; notice; objection; hearings

Sec. 28. (a) Each year the department of local government finance shall notify each public utility company of:

- (1) the department's tentative assessment of the company's distributable property; and
- (2) the value of the company's distributable property used by the department to determine the tentative assessment.

The department of local government finance shall give the notice on or before September 1, in the case of railroad car companies, and shall give the notice on or before June 1, in the case of all other public utility companies.

(b) Within ten (10) days after a public utility company receives notice of the department of local government finance's tentative assessment, the company may:

- (1) file with the department its objections to the tentative assessment; and
- (2) demand that the department hold a hearing on the tentative assessment.

If the company does not file with the department of local government finance its objections to the tentative assessment within the time allowed, the tentative assessment is final and may not be appealed.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1981, P.L.66, SEC.7; P.L.59-1985, SEC.6; P.L.90-2002, SEC.79.

IC 6-1.1-8-29

Hearing; final assessment; notice

Sec. 29. If a public utility company files its objections to, and demands a hearing on, a tentative assessment within the time allowed, the department of local government finance shall hold a hearing on the tentative assessment at a time and place fixed by the department. After the hearing, if any, the department of local government finance shall make a final assessment of the company's distributable property and shall notify the company of the final assessment. However, the department of local government finance must give notice of the final assessment before September 30, in the case of railroad car companies, and before June 30 in the case of all other public utility companies.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1981, P.L.66, SEC.8; P.L.59-1985, SEC.7; P.L.90-2002, SEC.80.

IC 6-1.1-8-30

Appeal of final assessment

Sec. 30. If a public utility company files its objections to the department of local government finance's tentative assessment of the company's distributable property in the manner prescribed in section 28 of this chapter, the company may initiate an appeal of the department's final assessment of that property by filing a petition with the Indiana board not more than forty-five (45) days after the department gives the public utility notice of the final determination. The public utility may petition for judicial review of the Indiana board's final determination to the tax court under IC 4-21.5-5. However, the company must:

- (1) file a verified petition for judicial review; and
- (2) mail to the county auditor of each county in which the public utility company's distributable property is located:
 - (A) a notice that the complaint was filed; and
 - (B) instructions for obtaining a copy of the complaint;

within forty-five (45) days after the date of the notice of the Indiana board's final determination.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.291-1985, SEC.2; P.L.198-2001, SEC.24; P.L.178-2002, SEC.13.

IC 6-1.1-8-31

Appeal of final judgment; court procedure

Sec. 31. When a public utility company petitions for judicial review under section 30 of this chapter, the tax court shall:

- (1) try the case without a jury;
- (2) give preference to the case to ensure a prompt trial;
- (3) review the Indiana board's final determination;
- (4) presume the findings of the Indiana board are correct; and
- (5) order the department of local government finance to file certified copies of the department's records related to the assessment if the company asks the court to issue such an order.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.78-1987, SEC.3; P.L.198-2001, SEC.25.

IC 6-1.1-8-32

Setting aside final determination; grounds

Sec. 32. When a public utility company initiates an appeal under section 30 of this chapter, the tax court may set aside the Indiana board's final determination and direct the Indiana board to refer the matter to the department of local government finance with instructions to make another assessment if:

- (1) the company shows that the department's final assessment, the department's apportionment and distribution of the final assessment, or the Indiana board's final determination is clearly incorrect because the department or the Indiana board violated the law or committed fraud; or
- (2) the company shows that the department's final assessment is not supported by substantial evidence.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.291-1985, SEC.3; P.L.198-2001, SEC.26.

IC 6-1.1-8-33

Appeal of township assessor's assessment of fixed property

Sec. 33. A public utility company may appeal a township assessor's assessment of fixed property in the same manner that it may appeal a township assessor's assessment of tangible property under IC 1971, 6-1.1-15.

(Formerly: Acts 1975, P.L.47, SEC.1.)

IC 6-1.1-8-34

Rate of tax; time of payment

Sec. 34. Except for:

- (1) a railroad car company's indefinite-situs distributable property; and
- (2) the distributable property of a railroad company that provides service within a commuter transportation district established under IC 8-5-15 and utilizes electricity to power substantially all of its railroad passenger cars;

the various taxing units shall tax public utility company property assessed for a particular year at the same tax rates at which tangible property assessed for that same year is taxed. The public utility companies shall pay the taxes in the year following the year of assessment at the same time that taxes on tangible property are due under IC 6-1.1-22-9.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1981, P.L.67, SEC.2.

IC 6-1.1-8-35

Indefinite-situs distributable property of railroad car companies; distributable property of certain railroads; computation of tax; disposition of tax proceeds

Sec. 35. (a) Each year the department of local government finance shall tax:

- (1) the indefinite-situs distributable property of railroad car companies; and
- (2) the distributable property of a railroad company that provides service within a commuter transportation district established

under IC 8-5-15 and utilizes electricity to power substantially all of its railroad passenger cars.

The department of local government finance shall compute the tax on a railroad car company's indefinite-situs distributable property based upon the average property tax rate in this state. The average property tax rate in this state for a year equals (A) the total of the property taxes in this state that will come due during that year divided by (B) the total net assessed valuation of property in this state for the preceding year's assessment. The department of local government finance shall base its computation of the average property tax rate for a year upon information which is available to the department as of December 31 of the preceding year. The department of local government finance shall compute the tax on a railroad company's distributable property based upon the average property tax rate that is imposed by taxing districts that are located in any county in which a railroad company, that is taxed under this section, provides railroad services. The average property tax rate of taxing districts that are located in any county in which a railroad company that is taxed under this section equals (i) the total of the property taxes in those taxing districts that will come due during that year divided by (ii) the total net assessed valuation of property in those districts for the preceding year's assessment. The department of local government finance shall base its computation on the average property tax rate for a year upon information which is available to the board as of December 31 of the preceding year.

(b) The department of local government finance shall certify the tax it imposes on indefinite-situs distributable property of railroad car companies and a railroad company's distributable property taxed under this section to the department of state revenue. Each of those companies shall pay the tax to the department of state revenue on or before December 31 of the year the assessment is made. If one (1) of those companies does not pay the tax when it is due, the company shall pay a penalty, in addition to the tax, equal to twenty-five percent (25%) of the delinquent tax. When the tax imposed on indefinite-situs distributable property of railroad car companies by this chapter becomes delinquent, the department of state revenue shall proceed with the collection of the delinquent tax and penalty in accordance with the provisions of IC 6-8.1-8.

(c) The department of state revenue shall promptly deposit all amounts collected under this section that are derived from indefinite-situs distributable property of railroad car companies in the state treasury for credit to the commuter rail service fund established by IC 8-3-1.5-20.5 to be used exclusively for debt financing of the commuter transportation district's long term capital needs.

(d) The department of state revenue shall promptly deposit all amounts collected under this section from a railroad company in the state treasury for credit to the electric rail service fund established by IC 8-3-1.5-20.6.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by Acts 1979, P.L.50, SEC.1; Acts 1981, P.L.66, SEC.9; Acts 1981, P.L.67, SEC.3; Acts 1982, P.L.43, SEC.4; P.L.73-1983, SEC.6; P.L.59-1985, SEC.8; P.L.253-1999, SEC.1; P.L.291-2001, SEC.232; P.L.90-2002, SEC.81.

IC 6-1.1-8-35.1

Repealed

(Repealed by P.L.59-1985, SEC.37.)

IC 6-1.1-8-36

Payment of taxes regardless of pending appeal; injunction; reassessment of distributable property

Sec. 36. (a) A public utility company shall pay any taxes which are based upon the department of local government finance's assessment of distributable property regardless of whether or not an appeal of the assessment is pending. However, the collection of the taxes may be enjoined pending an original tax appeal under IC 33-3-5.

(b) The department of local government finance shall reassess distributable property and shall certify the reassessment to the county auditor of each county in which the property is taxable if:

(1) the Indiana board:

(A) sets aside the department's original assessment and orders the department to reassess the distributable property; or

(B) refers the matter to the department under section 32 of this chapter with instructions to make another assessment; and

(2) the decision of:

(A) the Indiana board is not appealed to the tax court; or

(B) the tax court in which the matter was referred to the department under section 32 of this chapter is not appealed to the supreme court.

(c) If the tax court sets aside the Indiana board's final determination and the Indiana board reassesses distributable property, the Indiana board shall certify the reassessment to the county auditor of each county in which the property is taxable if the decision of the tax court is not appealed to the supreme court.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.291-1985, SEC.4; P.L.90-2002, SEC.82.

IC 6-1.1-8-37

Reassessment of distributable property; refunds or taxes due

Sec. 37. (a) If:

(1) the department of local government finance's reassessment of distributable property is less than the department's original assessment; or

(2) the Indiana board's reassessment of distributable property is less than the department's original assessment;

the auditor of each affected county shall compute the tax refund, if any, which is due the public utility company. The county auditor shall then issue a warrant to the company for the amount of the refund due, and the county treasurer shall pay the warrant, without an appropriation for the disbursement.

(b) If:

(1) the department of local government finance's reassessment of distributable property is greater than the department's original assessment; or

(2) the Indiana board's reassessment of distributable property is

greater than the department's original assessment; the auditor of each affected county shall enter the difference as an assessment of omitted property. The county auditor shall compute and the county treasurer shall collect the additional tax due in the same manner that taxes on omitted property are computed and collect. However, the county officials may not charge penalty or interest on the additional tax due unless the public utility company does not pay the tax within thirty (30) days after the date notice of the additional tax due is given to the company.

(c) The accounts of the various taxing units shall be credited or charged with each unit's proportionate share of additional taxes collected and refunds made under this section.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.90-2002, SEC.83.

IC 6-1.1-8-38

Lien; collection of delinquent taxes; penalties

Sec. 38. (a) Taxes which are based upon an assessment which is made under this chapter are a lien upon the property assessed. This lien accrues on the assessment date of the year of assessment. In addition, the taxes are a personal debt of the public utility company in whose name the property is assessed.

(b) If a public utility company does not pay the taxes when they are due, the county treasurer shall notify the prosecuting attorney of that fact. The prosecuting attorney shall then bring an action against the company to recover the delinquent taxes or to enforce the lien upon the property, or both. In such an action, the judgment shall include a penalty equal to fifty percent (50%) of the delinquent taxes. This subsection does not apply to taxes on a railroad car company's indefinite-situs distributable property.

(Formerly: Acts 1975, P.L.47, SEC.1.)

IC 6-1.1-8-39

Omitted property; assessment

Sec. 39. The annual assessments of a public utility company's property are presumed to include all the company's property which is subject to taxation under this chapter. However, this presumption does not preclude the subsequent assessment of a specific item of tangible property which is clearly shown to have been omitted from the assessments for that year. The appropriate township assessor shall make assessments of omitted fixed property. The department of local government finance shall make assessments of omitted distributable property. However, the department of local government finance may not assess omitted distributable property after the expiration of ten (10) years from the last day of the year in which the assessment should have been made.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.90-2002, SEC.84.

IC 6-1.1-8-40

Omitted property; rate of assessment; interest

Sec. 40. When the department of local government finance assesses distributable property which was omitted from the assessment for a particular year, the department shall, as nearly as possible, assess the omitted distributable property in the same manner that the department assesses other distributable property. The taxes due on the omitted distributable property shall be calculated by using the same tax rates which were applicable for the tax year that the distributable property was omitted from the assessment. The public utility company shall pay interest on the taxes due on the omitted distributable property at the rate of two percent (2%) per month, or fraction of a month. The interest due shall be calculated on the period of time beginning with January 1 of the year following the year in which the property was omitted from the assessment and ending with the day the taxes are paid. However, the department of local government finance may waive any portion of the interest due under this section at the time the department makes its final assessment of the omitted distributable property.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.64-1983, SEC.3; P.L.90-2002, SEC.85.

IC 6-1.1-8-41

Valuation methods used in other states

Sec. 41. The department of local government finance shall keep itself informed about the methods which other states use to value public utility companies.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.90-2002, SEC.86.

IC 6-1.1-8-42

Rules and regulations; promulgation

Sec. 42. (a) The department of local government finance shall promulgate rules and regulations to provide equal treatment for the public utility companies within each classification. These rules and regulations may not:

- (1) prohibit the assessment and taxation of a company's property which is subject to taxation under this chapter; or
- (2) prohibit the department of local government finance from making adjustments in those cases where the rules and regulations would result in an assessment that would be unfair to the state or to the public utility company.

(b) The department of local government finance may adopt rules and regulations to carry out the intent and provisions of this chapter. The rules and regulations must be consistent with this chapter.

(Formerly: Acts 1975, P.L.47, SEC.1.) As amended by P.L.90-2002, SEC.87.

IC 6-1.1-8-43

Purpose of chapter; conflicting provisions

Sec. 43. This chapter is designed to provide special rules for the assessment and taxation of public utility company property. If a provision of this chapter conflicts with any provision of another chapter of this article, the provision of this chapter controls with respect to the

assessment and taxation of public utility company property.
(Formerly: Acts 1975, P.L.47, SEC.1.)

IC 6-1.1-8-44

Utility personal property tax manual; incorporation by reference

Effective 1-1-2003.

Sec. 44. (a) Except to the extent that it conflicts with a statute, 50 IAC 5.1 (as in effect January 1, 2001) is incorporated by reference into this section.

(b) Tangible personal property within the scope of 50 IAC 5.1 (as in effect January 1, 2001) shall be assessed on the assessment dates in calendar years 2003 and thereafter in conformity with 50 IAC 5.1 (as in effect January 1, 2001).

(c) The publisher of the Indiana Administrative Code may continue to publish 50 IAC 5.1 (as in effect January 1, 2001) in the Indiana Administrative Code.

(d) 50 IAC 5.2 and any other rule to the extent that it conflicts with this section is void.

(e) A reference in 50 IAC 5.1 to a governmental entity that has been terminated or a statute that has been repealed or amended shall be treated as a reference to its successor.

As added by P.L.192-2002(ss), SEC.29.